
1st Session First Legislature Trinidad and Tobago
11 Elizabeth II



TRINIDAD AND TOBAGO

Act No. 4 of 1962

[L.S.]

AN ACT to provide for the establishment and development of the petrochemicals industry in Trinidad and Tobago and for purposes connected therewith.

[Assented to 30th August, 1962]

BE IT ENACTED by the Queen's Most Excellent Majesty, Enactment.
by and with the advice and consent of the Senate and
House of Representatives of Trinidad and Tobago, and
by the authority of the same as follows :

1. This Act may be cited as the Petrochemicals Industry Short title.
Development Act, 1962.

Interpretation

2. In this Act,

First Schedule

Ch. 33. No. 3.

Governor may vary First Schedule.

Application for Manufacturing Order.

- (a) "approved manufacturer" means a manufacturer in whose favour a manufacturing order has been made under this Act;
- (b) "approved products" means the petrochemical products set out in the first column of the First Schedule and produced by plants capable of producing the quantities within the period specified in the second column of the said Schedule;
- (c) "effective date" in reference to a manufacturing order means the date fixed in the order as the effective date thereof;
- (d) "manufacturer" includes any person providing plant and materials for making approved products;
- (e) "manufacturing order" means an order made pursuant to section 5;
- (f) "Minister" means the member of Cabinet for the time being charged with responsibility for the subject of industry;
- (g) "plant" means a factory as defined in the Principal Ordinance;
- (h) "Ordinance" means the Aid to Pioneer Industries Ordinance;
- (i) "tax holiday period" means the period during which income is exempt from income tax;
- (j) "Territory" means the Territory of Trinidad and Tobago.

3. The Governor may by notice published in the *Royal Gazette* vary the First Schedule by adding thereto any other approved product or removing therefrom any approved product included or added thereto.

4. (1) A manufacturer who undertakes to erect in the Territory one or more plants for the manufacture of one or more approved products may apply in writing to the Governor for a manufacturing order under this Act in favour of the applicant in respect of any such one or more plants to be erected in the Territory.

(2) An application under subsection (1) shall be in writing and shall specify

- (a) the locality in which it is proposed to erect the plant in respect of which the application is made;
- (b) the date on or before which it is intended to commence to construct the plant;
- (c) the date on or before which it is anticipated that the plant will commence to manufacture approved products in marketable quantities;
- (d) the anticipated output of approved products;
- (e) the number of persons proposed to be employed;
- (f) the extent of the investment in fixed and other capital involved in the construction, equipment and operation of the plant or plants.

5. (1) The Governor upon receipt of an application under section 4 may, if he deems it expedient to do so in the public interest and for the furtherance of the economic development of the Territory, make a manufacturing order applying the provisions of this Act to the applicant manufacturer in respect of any plant or plants described in the application. Manufacturing Order.

(2) The Governor may in any manufacturing order impose conditions not being inconsistent with this Act, to be observed by an approved manufacturer; and upon failure to observe any such condition the manufacturing order may be revoked by the Governor.

(3) A manufacturing order shall fix therein a date or dates which shall be the effective date or dates with respect to any plant or plants described in the order.

(4) An approved manufacturer is entitled in respect of each plant specified in the manufacturing order that relates to him to receive the benefits of the concessions provided by this Act.

6. Notwithstanding anything contained in the Ordinance, the manufacture of approved products shall be deemed to be a pioneer industry and an approved product a pioneer product within the meaning and for the purposes of the said Ordinance as though the provisions of section 3 of the Ordinance had been complied with. Manufacture of approved products deemed to be a pioneer industry and approved products pioneer products for purposes of Aid to Pioneer Industries Ordinance.

Application
of Ordinance.

7. (1) Subject to subsection (2), where a manufacturing order is made under this Act, the approved manufacturer to whom the order relates shall, from the effective date thereof, be deemed to be a pioneer manufacturer within the meaning and for the purposes of the Principal Ordinance in relation to the plant or plants specified in the manufacturing order for the manufacture of approved products as though application had been made for that purpose under section 4 of the Principal Ordinance and the other provisions of that Ordinance had been complied with.

(2) In its application to an approved manufacturer the Principal Ordinance is subject to the following modifications, namely :—

- (a) the construction day in relation to each plant specified in a manufacturing order may be any day not later than twelve months after the effective date;
- (b) the production day in relation to each plant specified in a manufacturing order may be any day not later than four years after such construction day;
- (c) the period during which relief from the payment of customs duty on articles imported into the Territory and during which refund of customs duties imposed on articles purchased in the Territory will be granted shall be ten years instead of five years as prescribed in section 5 of the Principal Ordinance;
- (d) the tax holiday period shall be ten years instead of the five years as prescribed in subsection (1) of section 8 of the Principal Ordinance and shall be in respect of each plant specified in a manufacturing order;
- (e) for the purposes of section 10 of the Principal Ordinance the period of thirty days prescribed therein shall be extended to three months.

(3) For the purposes of the Principal Ordinance, a reference to an order made under section 4 thereof shall be deemed to include a reference to a manufacturing order made under this Act.

(4) Notwithstanding the exemption from income tax conferred by section 8 of the Ordinance as modified by paragraph (d) of subsection (2) an approved manufacturer shall make a return of the income so exempt from tax at the same time and in the same manner as he would be required to do under the Income Tax Ordinance if such income were not exempt from tax.

8. (1) Notwithstanding any other law, where a manufacturing order is made under this Act, Effect of
Manufacturing
Order.

(a) the approved manufacturer named in the order shall be exempted from payment of duty, tax or charge on the export of approved products manufactured in the Territory by him, subject to such conditions not inconsistent with this Act as the Governor may impose from time to time;

(b) the approved manufacturer named in the order is entitled to import into the Territory free of customs duty and to claim a refund of customs duty thereon when they are purchased in the Territory by him all types of containers, fuel, raw materials, chemicals, other ingredients and supplies whether in a manufactured or semi-manufactured state, if

(i) those articles are required for use in or in connection with the manufacture or preparation for sale of approved products; and

(ii) he satisfies the Comptroller that those articles or any of them are not manufactured or produced in the Territory at a reasonable price;

(c) the approved manufacturer to whom the order relates, or a contractor employed by him for the construction of any plant or facilities specified in the order, or any other persons importing material for use in the construction of any plant or facilities specified in the order, may, during a period of ten years beginning on the effective date of the order, import the articles mentioned in the Second Schedule free of customs duties and claim for himself or such other parties a Second Schedule.

refund of customs duties thereon in respect of any such articles as he may satisfy the Comptroller are necessary and required for use in the construction, alteration, extension, equipment, operation and administration of any plants specified in the manufacturing order, including

- (i) the office building;
- (ii) ancillary facilities necessary for the proper administration thereof and for the health, safety, hygiene and welfare at the plant of the employees of such manufacturer.

(2) Notwithstanding any law relating to income tax, where a manufacturing order is made under this Act, every sum paid by way of interest by an approved manufacturer on loans made to him and employed for the purposes of the manufacture or sale by him of approved products shall, if such loans were made to him by

- (a) persons residing outside the Territory, or
- (b) persons residing in the Territory and are of duration for a period of not less than five years and secured by way of a debenture, mortgage, deed or other similar instrument,

until the expiration of the tax holiday period of the approved manufacturer, be exempted from income tax in the hands of the recipient of such interest.

(3) Subsection (2) does not apply to sums paid by an approved manufacturer as interest on a bank overdraft on a current account maintained by him in any bank.

Compulsory
acquisition of
right of user.

9. (1) In this section "right of user" means a right to the user of land for any purpose, including the abstraction of water, in connection with the manufacture of an approved product, and includes the right of access to and of opening up such land from time to time for the execution of the works necessary for that purpose, and for the inspection, renewal, repair, replacement or removal of such works.

(2) Subject to this section, an approved manufacturer may acquire compulsorily under this section any right of user.

(3) Every approved manufacturer who desires to acquire any right of user compulsorily under the provisions of this section shall

- (a) make a written application for the purpose to the Governor giving a detailed description of
 - (i) the right of user desired,
 - (ii) the location of the land to be affected thereby, and
 - (iii) the works proposed to be executed on such land,

and stating the period for which the right of user is sought, if it is sought for a fixed period, and, as far as can be ascertained, the names and addresses of the persons who may be injuriously affected by the acquisition of such right of user;

- (b) furnish the Governor with a survey plan of the land, hereinafter referred to as "the plan", and with such information as he may require to enable him to adjudicate upon the application.

(4) If the Governor is satisfied that it is desirable that the right of user sought by an approved manufacturer should be acquired by him and that the right of user cannot reasonably be acquired by private treaty, the Governor shall

- (a) give notice accordingly by publication once in the *Royal Gazette* and not less than twice in a local daily newspaper circulating in the Territory setting forth in such notice the description and the period for which the right of user to which the notice relates is sought, and specifying the time, which shall not be less than fourteen days from the date of the last of the said publications, and the manner in which objections may be made; and
- (b) not later than the date of the last of the publications required by paragraph (a), cause like notices to be served upon the interested parties named in the written application of the approved manufacturer and a like notice to be exhibited conspicuously in one or more convenient place on or near the land to be affected by the desired right of user.

(5) Any person claiming that the grant of the right of user will cause him loss, damage or injury, may, within the time specified in the notice mentioned in subsection (4), apply to a Judge in Chambers for a declaration that the right of user ought not to be granted; and any party may appeal to the Full Court against the decision of the Judge in Chambers but the decision of the Full Court upon any such appeal shall be final.

(6) At the expiration of the period allowed for objections,

(a) if no application for a declaration has been made during that period, the Secretary to the Cabinet shall issue to the Registrar General a certificate in the Form A in the Third Schedule setting out the description of the right of user sought and with the plan annexed thereto;

(b) if any application for a declaration has been made during that period but no objection has been upheld, the Secretary to the Cabinet shall forward a copy of the description of the right of user sought and the plan to the Registrar of the Supreme Court who shall issue to the Registrar General a certificate in the Form B contained in the Third Schedule to this Act, setting out the description and with the plan annexed thereto; but no such certificate shall be issued until the expiration of the period allowed for the filing of an appeal against the decision of the Judge in Chambers; and where such an appeal has been filed no such certificate shall be issued unless the appeal has been dismissed;

(c) if any application for a declaration has been made during that period and an objection has been upheld, the Registrar of the Supreme Court shall notify the Governor accordingly.

(7) The Registrar General shall countersign every certificate issued to him in accordance with subsection (6) and register such certificate and index in such manner as he may deem convenient; and any person may inspect and search any such register and index on payment of the sum of sixty cents.

(8) Upon the registration of a certificate in accordance with subsection (7), the right of user described in the certificate shall be deemed to have been duly granted to

Third Schedule:
Form A.

Third Schedule:
Form B.

the approved manufacturer named therein for the period specified in the certificate and shall be binding as against all persons.

(9) Where any land to which a certificate relates is held under the Real Property Ordinance, the Registrar Ch. 27. No. 11. General shall, on the certificate being lodged with him, endorse a reference to the certificate on the appropriate Crown Grant or certificate of title.

(10) Compensation in respect of any loss, damage or injury that, at the time the right of user is acquired under this section, may be expected to be caused by the acquisition of such right shall be paid in accordance with the provisions of subsection (11); and in determining the compensation payable the period of the right of user in any agreement that may have been made, or undertaking which may have been given, by the approved manufacturer as to the future restoration in whole or in part of the land to which the right of user relates shall be taken in account.

(11) Whenever compensation is payable under this section, the following provisions have effect :

- (a) the amount of the compensation payable shall be determined, in default of agreement or arbitration, by a Judge in Chambers on the application of the approved manufacturer or any claimant;
- (b) the proceedings before the Judge in Chambers shall in no case be deemed an arbitration within the meaning of the Arbitration Ordinance;
- (c) the Judge in Chambers awarding the compensation may include in the award interest on the amount for all or any part of the period from the date of the acquisition to the date of the award, and at such rate not exceeding six per cent. per year, as he may deem just in all the circumstances of the case;
- (d) any compensation awarded shall bear interest at the rate of six per cent. per year from the date of the award.

10. There shall be a right of appeal to the Full Court Appeal. against any decision of a Judge in Chambers on any claim for compensation under section 9.

Rules of Court.

Ch. 3. No. 1.

11. (1) Rules of court may be made in like manner as rules may be made under and for the purposes of the Judicature Ordinance for determining the practice and procedure to be followed in relation to applications to the Supreme Court under the provisions of this Act, as to the cost and fees thereon, as to the payment of compensation into court in appropriate cases and the investment and disposal of moneys in court, and as to any ancillary or consequential matters.

(2) Where no rules are made under subsection (1), the rules and practice of the Supreme Court apply.

Protection of right of user.

12. A person who assaults, obstructs, molests or hinders an approved manufacturer or his servant or agent in the exercise of any right of user vested in such manufacturer under and by virtue of subsection (8) of section 9 is liable on summary conviction to a fine of two hundred dollars or to imprisonment for three months or to both such fine and such imprisonment.

Special provisions relating to permits and licences for sinking of wells and boreholes and abstraction of underground water.

Ch. 15. No. 2.

13. (1) In this section "Board" means the Board of appeal constituted under the Waterworks and Water Conservation Ordinance.

(2) Where any person makes application for the grant of a permit or licence under section 18 of the Waterworks and Water Conservation Ordinance, any approved manufacturer may object to such grant on the ground that it would adversely affect the operation of a plant specified in the manufacturing order made in his favour by permitting the removal of a substantial amount of water that would otherwise have been available to meet the reasonable requirements of his undertaking, and the application for the grant of the permit or licence may be refused on such ground, or may be granted subject to the imposition of such conditions and restrictions as may be considered necessary by reason of such objection.

(3) An appeal lies to the Board

(a) by an applicant, against a refusal of an application for the grant of a permit or licence made under subsection (2) or against the imposition of conditions or restrictions thereunder;

(b) by an approved manufacturer, against the grant of a permit or licence under the Waterworks and Water Conservation Ordinance.

Ch. 15. No. 2.

(4) Where an approved manufacturer makes application for the grant of a permit or licence under section 18 of the Waterworks and Water Conservation Ordinance and such application is refused or is granted subject to any condition or restriction, the approved manufacturer may appeal against such decision to the Board and if the Board is satisfied that it is necessary for the efficient operation of the undertaking of the approved manufacturer that the permit or licence should be granted and that no objection to such grant on any ground specified in subsection (6) of section 18 of that Ordinance can be taken, the Board shall direct that the permit or licence be issued to the approved manufacturer subject to such conditions or restrictions, if any, as the Board may think fit to impose. Ch. 15. No. 2.

14. (1) Subject to this section the Governor may by order fix the maximum prices that may be charged by an approved manufacturer during any period specified in such order for approved products in the Territory Maximum prices.

(a) to the public generally (in this section referred to as a "general price control order"); or

(b) to the Government or any department thereof or to any municipal or statutory body for purposes which, in the opinion of the Governor are public purposes (in this section referred to as a "special price control order").

(2) No order shall be made under this section and no such order made shall be made valid unless

(a) there is in force an *ad valorem* customs duty imposed on products identical with those mentioned in the first column of the First Schedule imported into the Territory at the rate of twenty per cent. or more;

(b) the importation of products referred to in paragraph (a) into the Territory is prohibited except under specific licence issued by or on behalf of the Government; and

(c) where the release of hard currency is wholly or partially controlled by the Government, the release of any such controlled currency is subject to the condition that the currency shall not be used in payment for any products referred to in paragraph (a) imported into the Territory

except under and in accordance with a special permit issued by or on behalf of the Government.

(3) The maximum price fixed by a general price control order shall not be less than the landed cost of a product identical with those mentioned in the first column of the First Schedule.

(4) The maximum price fixed by a special price control order shall not be less than ninety per cent. either—

(a) of the maximum price fixed in respect of such product by a general price control; or

(b) of the current price free on board from the plant charged by the approved manufacturer in respect of approved products exported from the Territory,

applies only in respect of the sale of such quantity as the Governor may from time to time determine.

(5) In computing the landed cost referred to in subsection (3) the Governor shall have regard to

(a) price quotation of products identical with those mentioned in the first column of the First Schedule produced and sold in the United States of America and the United Kingdom as set forth in established Trade Journals in the United States of America and the United Kingdom; and

(b) current freight rates, as agreed upon by associations of the shipping lines operating to the Territory in respect of the carriage of such products to the Territory from the United States of America or the United Kingdom as the case may be.

(6) If at any time during the period specified in an order made under subsection (1), an approved manufacturer unlawfully sells approved products in the Territory at a price in excess of the maximum price fixed by such order, the Governor may call upon him to correct such excess and to refund to any purchaser the amount of any such overcharge and if within thirty days of being so called upon an approved manufacturer does not take the action demanded or shown good cause to the satisfaction of the Governor why he should not do so, the manufacturing order applicable to such manufacturer may be revoked.

15. (1) Subject to subsection (2), where the approved manufacturer at any time during which a manufacturing order is in force in his case

(a) ceases to manufacture an approved product in the Territory for a period of upwards of six months, or

(b) fails to recommence the manufacture of an approved product within a period of three months after receiving a notice in writing signed by the Minister requiring him so to do,

the manufacturing order may be revoked.

(2) Where the approved manufacturer proves to the satisfaction of the Governor that he has ceased to manufacture an approved product or has failed to recommence the manufacture of an approved product within the periods mentioned in paragraphs (a) and (b) respectively of subsection (1) for any of the following reasons :

(a) an act of God or the Queen's enemies;

(b) fire or explosion resulting from any cause whatever;

(c) natural calamities, strikes or lockouts, restraint of princes or people;

(d) the provisions of any legislative enactment having statutory effect either in the Territory or elsewhere;

(e) accidental, negligent or malicious damages;

(f) shortages of fuel or materials; or

(g) any other cause beyond his control, whether similar to the foregoing or not,

the provisions of subsection (1) do not apply.

16. (1) Where an approved manufacturer at any time during which a manufacturing order is in force in his case

(a) unreasonably refuses to sell approved products to a resident purchaser if the approved manufacturer can do so without detriment to any other resident purchaser;

(b) refuses to sell any approved product to the Government or any department thereof or to any municipal or statutory body after being directed so to do by the Governor,

Cessation of or failure to recommence manufacture of approved products.

Refusal to sell approved products to resident purchasers, Government, &c.

if the approved manufacturer persists in such refusal for seven days after his attention has been drawn in writing to such refusal by the Minister, the manufacturing order may be revoked.

(2) In this section "resident purchaser" means a person resident in the Territory who requires not less than the quantity of approved products specified in each case in the manufacturing order to be delivered to such person at the plant in any period of four weeks.

FIRST SCHEDULE

(Section 2 (b))

<i>Name and description of petrochemical</i>	<i>Required capacity of plant in a continuous twenty-four hour period</i>
(a) Methanol manufactured by the use of natural gas	One hundred and fifty tons.
(b) Styrene manufactured from mixed xylenes	Fifty tons.
(c) Naphthalene manufactured from hydrocarbon distillate	Sixty tons.
(d) Phthalic Anhydride manufactured from naphthalene or other hydrocarbon distillates	Twenty-five tons.
(e) Ethylene Glycol manufactured from gaseous hydrocarbons	Fifty tons.
(f) Oxo Alcohols manufactured from natural gas and olifins	Twenty-five tons.
(g) Synthetic resins, that is to say, formalin, liquid and spray dried urea, formaldehyde and melamine resins	Fifty tons.

SECOND SCHEDULE

(Section 8 (1) (d))

All building materials, fixtures, tools, plant, machinery, pipes, pumps, fencing materials, conveyor belts, sea and land transport equipment and other appliances and equipment.

THIRD SCHEDULE

FORM A

(Section 9 (6) (a))

Certificate of Compulsory Acquisition of a Right of User

I hereby certify that in accordance with the provisions of section 7 of the Petrochemicals Industry Development Act, 1962, _____ has duly acquired the right of user of land hereinafter described, and that no objection to the grant of the said right has been taken.

Description of right

Dated this _____ day of _____

Secretary to the Cabinet

Lodged with me this _____ day of _____

Registrar General

FORM B

(Section 7 (6) (b))

Certificate of Compulsory Acquisition of a Right of User

I hereby certify that in accordance with the provisions of section 7 of the Petrochemicals Industry Development Act, 1962 _____ has duly acquired the right of user of land hereinafter described, and that no objection to the grant of the said right has been upheld by the Supreme Court.

Description of right

Dated this _____ day of _____

Registrar of Supreme Court

Lodged with me this _____ day of _____

Registrar General

Passed in the House of Representatives this Twenty-second day of June, 1962.

J. P. OTTLEY

Acting Clerk, House of Representatives

Passed in the Senate this Twenty-third day of July, 1962.

J. E. CARTER

Acting Clerk to the Senate